

MDR Tracking Number: M5-04-1694-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 02-10-04.

The IRO reviewed electrical stimulation-unattended and ultrasound for date of service 10-31-03 and 11-03-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 04-21-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
10-31-03	99214	\$101.74	\$0.00	N	\$101.74	MEDICARE FEE SCHEDULE	Requestor submitted relevant information to support documentation criteria. Reimbursement recommended in the amount of \$101.74
TOTAL		\$101.74	\$0.00				Requestor is entitled to reimbursement in the amount of \$101.74

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 10-31-03 through 11-03-03 in this dispute.

This Findings and Decision and Order are hereby issued this 3rd day of June 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

May 27, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT

Corrected items in dispute (delete office visits).

Re: MDR #: M5-04-1694-01
IRO Certificate No.: 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine who is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

H&P and office notes

Operative and radiology reports

Clinical History:

The patient is a 46-year-old male laborer with previous lumbar surgeries in 1997 and 1998, who developed immediate, sharp pain in his mid-to-lower back on ____ after a work-related accident.

Following an initial trial of conservative chiropractic care, the patient eventually underwent T11-12 laminectomy and facetectomy on 08/06/03.

Disputed Services:

Electrical stimulation-unattended and ultrasound during the period of 10/31/03 through 11/03/03

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were medically necessary in this case.

Rationale:

This patient underwent lower back spinal surgery on 08/06/03, and for whatever reason, his spinal surgeon did not clear him to begin post-operative rehabilitation therapy until 10/07/03, a mere 3-and-one-half weeks before these services were performed. Considering the limited amount of time that had elapsed since the surgical procedure, as well as the extent of the injury, these services fell well within the standard of care relative to a post-operative condition, and in no way represented services that would be considered excessive or medically unnecessary. Moreover, this patient was seen by a TWCC designated doctor on 01/29/04, and it was his opinion – more than two months after these services were provided – that he was not “yet at maximum medical improvement and would not anticipate him achieving that in probably less than about another six months.” He even went on to opine in his report that he “strongly suspect[ed] that additional surgery would be required” in this patient.

Sincerely,